



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 13, 1998

Mr. Saul Pedregon
Assistant City Attorney
Office of the Dallas City Attorney
Criminal Law and Police Division
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-1656

Dear Mr. Pedregon:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116640.

The Dallas Police Department (the "department") received an open records request for a particular offense report. You contend that the requested information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed

¹Because we resolve your request under section 261.201 of the Family Code, we need not address your other arguments for withholding the requested information. Please note, however, that section 552.108(a)(2) of the Government Code protects only information pertaining to closed criminal investigations that did not result in conviction or deferred adjudication. You have characterized the criminal investigation of this matter as "pending." Please be aware that the inadequate briefing on the applicability of an exception to required public disclosure may result in the waiver of that exception. See Open Records Decision No. 363 (1983) (if governmental body does not establish how and why exception applies, no basis exists for pronouncing it protected).

only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, *the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.* [Emphasis added.]

You have not informed this office of any rules the department has adopted that would permit access to the requested records. Because the information at issue pertains to an investigation of child abuse, this office concludes that the department must withhold the requested records in their entirety pursuant to section 261.201 of the Family Code. *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/ch

Ref.: ID# 116640

Enclosures: Submitted documents

cc: Ms. Karen Kovar
2202 Meadow Glen Drive
Garland, Texas 75044
(w/o enclosures)